



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Mitt Romney, Governor ♦ Kerry Healey, Lt. Governor ♦ Jane Wallis Gumble, Director

**Summary of
Recent 40B Regulatory Changes**

March 2001

1. Developers to provide notice to DHCD of application for Project Eligibility (Site Approval) to a subsidy agency
2. Subsidy Agencies to provide notice to communities of application and provide a 30-day period for the receipt of comments.
3. Developers to notify DHCD of receipt of a Project Eligibility (Site Approval) letter.

August 2001

1. Subsidy Agencies must provide enhanced information in Project Eligibility (Site Approval) letters based on more thorough analysis of the project and the site.
2. DHCD to include housing that serves DMH/DMR clients on the subsidized housing inventory
3. DHCD to include units on the subsidized housing inventory at the time when permit is final
4. A community may deny a comprehensive permit if it has increased its affordable housing stock by two percent (2%) in the prior 12 months
5. A community may deny a comprehensive permit if the project size exceeds certain limits based on the number of a community's year round housing stock.
6. A developer may not submit an application for a comprehensive permit if twelve months has not elapsed between the date of application and any of the following:
 - (i) The date of filing of a prior application for a variance, special permit, subdivision or other approval related to construction on the same land if that application included no low or moderate income housing,
 - (ii) Any date during which such an application was pending before a local permit granting authority,
 - (iii) The date of disposition of such an application, or
 - (iv) The date of withdrawal of such an application.

August 2002 Emergency Regulations (finalized December 20, 2002)

1. Local programs qualify for inclusion on the subsidized housing inventory
2. Accessory apartments serving households at 80% AMI will be included on the subsidized housing inventory
3. Communities must send DHCD copies of Comprehensive Permits issued

4. DHCD will update the in subsidized housing inventory every 2 years
5. The Housing Appeals Committee may receive as evidence and consider municipal plans
6. A community may deny a comprehensive permit if it has a housing plan that has been certified by DHCD and the community has added units pursuant to the plan that results in an increase in its number of low or moderate income housing units (which are eligible for inclusion on the subsidized housing inventory) by at least 3/4 of 1% of total units every calendar year.
7. Project Eligibility (Site Approval) letters and Final Approval must be issued by quasi-public or state agencies to developers of projects that use funding from non-governmental entities (e.g. the New England Fund). The quasi-public or state agency will also administer the project pursuant to the DHCD guidelines.